

ARTICLE 2700  
Zoning Hearing Board

§208-2701. Membership.

The membership of the Zoning Hearing Board shall consist of three (3) members appointed by the Board of Supervisors by resolution. Their terms of office shall be three (3) years and shall be so fixed that the term of office of one (1) member shall expire each year. The Board Chairman shall promptly notify Board of Supervisors when vacancies occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Zoning Hearing Board shall hold no other elected or appointed office in the Township, nor shall any member be an employee of the Township.

§208-2702. Alternate Members.

A. Appointment of Alternate Members

The Board of Supervisors may appoint at least one (1) but no more than three (3) residents of the Township to serve as alternate members of the Zoning Hearing Board. The term of office of an alternate member shall be three (3) years. When seated pursuant to the provisions of §208-2704 (B), an alternate shall be entitled to participate in all proceedings and discussions of the Zoning Hearing Board to the same and full extent as provided by law for Zoning Hearing Board members, including specifically the right to cast a vote as a voting member during the proceedings, and shall have all the power and duties set forth in this Chapter and as otherwise provided by law. Alternates shall hold no other elected or appointed office in the Township, nor shall any alternate be an employee of the Township. Any alternate may participate in any proceedings or discussion of the Board, but shall not be entitled to vote as a member of the Board unless designated as a voting alternate member pursuant to §208-2704(B) of this Chapter. Designation of an alternate pursuant to this subsection shall be made by the Chairman of the Zoning Hearing Board on a case-by-case basis in rotation according to declining seniority among all alternates.

B. Participation by Alternate Members

If, by reason of absence or disqualification of a member, a quorum is not reached, the Chairman of the Zoning Hearing Board shall designate as many alternate members of the Board to sit on the Zoning Hearing Board as may be needed to provide a quorum. Any alternate member of the Board shall continue to serve on the Zoning Hearing Board in all proceedings involving the matter or case for which the alternate was initially appointed until the Zoning Hearing Board has made a final determination of the matter or case.

§208-2703. Removal of Members.

Any Zoning Hearing Board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by majority vote of the Board of Supervisors, taken after the member has received 15 days advance notice of the intent to take such a vote. A public hearing shall be held in connection with the vote if the member shall request it in writing.

§208-2704. Organization of the Zoning Hearing Board.

The Zoning Hearing Board shall elect its officers from its own membership, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than two members, but the Zoning Hearing Board may appoint a hearing officer from its own membership to conduct any hearings on its behalf. In such a case, the parties may, prior to the decision, waive a decision by the Zoning Hearing Board and accept the decision of the hearing officer as provided in the MPC, as amended. The Zoning Hearing Board may make, alter and rescind rules and forms for its procedure, consistent with the ordinances of the Township and the laws of the Commonwealth. The Zoning Hearing Board shall keep full public records of its business, which records shall be the property of the Township, and shall submit a report of its activities to the Board of Supervisors as requested by the Board of Supervisors.

§208-2705. Expenditures for Services.

Within the limits of funds appropriated by the Board of Supervisors, the Zoning Hearing Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Zoning Hearing Board and alternates to the Zoning Hearing Board, when designated pursuant to §208-2702 (A), may receive compensation for the performance of their duties, as may be fixed by the Board of Supervisors, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the Board of Supervisors.

§208-2706. Conduct of Public Hearings.

A public hearing shall commence within 60 days of the filing of an administratively complete application. Public notice, as defined herein, of the public hearing, shall be advertised and posted as required by the MPC, and in addition thereto the Zoning Hearing Board shall post at least one copy of the notice on the affected property. Public hearings shall be conducted in accordance with the applicable provisions of the MPC.

§208-2707. Zoning Hearing Board Decisions.

- A. The Zoning Hearing Board or the hearing officer, as the case may be, shall render a decision or, when no decision is called for, make written findings on the application in accordance with the requirements of the MPC and within 45 days after the last hearing before the Zoning Hearing Board. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons therefore. Conclusions based on any provisions of this Chapter, or any other land use ordinance, rule or regulation or any provision of the MPC shall contain a reference to the provisions relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer and there has been no stipulation that the hearing officer's decision or findings are final, the Zoning Hearing Board shall make the hearing officer's report and recommendations available to the parties within 45 days, the parties shall be entitled to make written representations thereon to the Zoning Hearing Board prior to final decision or entry of findings, and the Zoning Hearing Board's decision shall be entered no later than 30 days after the report of the hearing officer.
- B. A copy of the final decision or, when no decision is called for, of the findings, shall be delivered personally or mailed to the applicant no later than the day following its date.

§208-2708. Jurisdiction of the Zoning Hearing Board.

The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications on the following matters:

- A. Substantive challenges to the validity of this Chapter or Chapter 174, Subdivision and Land Development, except those challenges brought before the Board of Supervisors pursuant to §§609.1 and 916.1(a)(2) of the MPC.
- B. Challenges to the validity of this Chapter or Chapter 174, Subdivision and Land Development, raising procedural questions or alleged defects in the process of enactment or adoption, which challenges shall be raised by an appeal taken in the time and manner provided under applicable law.
- C. Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any enforcement notice or the registration or refusal to register any nonconforming use, structure or lot.
- D. Appeals from the Zoning Officer's preliminary determination under §916.2 of the MPC.
- E. Applications for variances from the terms of this Chapter.
- F. Appeals from the determination of the Zoning Officer or Township Engineer in the administration of this Chapter or any provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development not involving applications under Chapter 174, Subdivision and Land Development.
- G. Appeals from the determination of the Zoning Officer with reference to the administration of floodplain provisions of Article 1400 of this Chapter.

§208-2709. Variances.

- A. Application. The Board shall hear requests for variances where it is alleged that the strict application of the provisions of this Chapter inflict unnecessary hardship upon the applicant. Application for a variance shall be made in writing on the prescribed form obtained from the Zoning Officer. The Zoning Officer shall forward the application to the Board, which shall determine the time and place of the hearing.
- B. Standards for Variances. The Board may grant a variance, provided that all the following findings are made where relevant in a given case:
  - 1. That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this Chapter in the neighborhood or district which the property is located.
  - 2. That, because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Chapter; and that authorization of a variance is therefore necessary to enable the reasonable use of property.

3. That such unnecessary hardship had not been created by the applicant.
  4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located nor substantially or permanently impair the appropriate use or development of adjacent property nor be detrimental to the public welfare.
  5. That the variance, if authorized, will represent the minimum variance which will afford relief and represent the least modification possible of the regulation in issue.
- C. Review by Planning Commission. The Zoning Hearing Board may request the review and comments of the Planning Commission on any variance application, which shall be made part of the public record.
- D. Conditions.

In granting any variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Chapter and the MPC.

- E. Expiration.

The grant of a variance shall expire one (1) year after the date of the Zoning Hearing Board's written decision unless (a) the applicant has applied for and obtained a building permit and commenced construction, or (b) in the case where the variance does not require the issuance of a building permit, the applicant has applied for and obtained an occupancy permit and has commenced the use which is the subject of the variance.

#### §208-2710. Parties Appellant Before the Board.

Appeals under §§208-2711 (A), (B), (C), (D), (F) and (G) may be filed with the Board in writing by the landowner affected, by any officer or agent of the Township or any person aggrieved. Requests for a variance under §208-2711(E) may be filed with the Zoning Hearing Board only by a landowner or any tenant with the permission of such landowner.

#### §208-2711. Time Limitation.

- A. No person shall be allowed to file any proceeding with the Zoning Hearing Board later than 30 days after an application for development, preliminary or final, has been approved by an appropriate Township officer, agency or body, if such proceeding is designed to secure reversal or to limit the approval in any manner, unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor interest.
- B. Any appeals from determinations adverse to the landowner shall be filed by the landowner within 30 days after notice of the determination is issued, except appeals of the Zoning Officer's issuance of an enforcement notice, which shall be filed within ten (10) days after receipt of the enforcement notice.

§208-2712. Stay of Proceedings.

- A. Upon filing of any proceeding referred to in §208-2711 and during its pendency before the Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or any agency or body and all official action thereunder shall be stayed, unless the Zoning Officer or any other appropriate agency or body certifies to the Zoning Hearing Board facts indicating that such stay would cause imminent peril to life or property, in which case, the development or official action shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Hearing Board or the Allegheny County Court of Common Pleas, on petition, after notice to the Zoning Officer or other appropriate agency or body.
- B. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Zoning Hearing Board by persons other than the applicant, the applicant may petition the Allegheny County Court of Common Pleas to order such persons to post a bond as a condition to continuing the proceedings before the Zoning Hearing Board, pursuant to provisions of the MPC.